



08-17-04

PATENT
674543-2004

2FW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) : Morton *et al.*
U.S. Serial No.: 10/668,564
Filed : September 23, 2003
For : LIPID PROFILE MODULATION
Art Unit : TO BE ASSIGNED
Examiner : TO BE ASSIGNED

745 Fifth Avenue
New York, NY 10151

EXPRESS MAIL

Mailing Label Number: EV 468996063 US

Date of Deposit: August 16, 2004

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" Service under 37 CFR 1.10 on the date indicated above and is addressed to: **Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

Charles Jackson
(Typed or printed name of person mailing paper or fee)

Charles Jackson
(Signature of person mailing paper or fee)

**RESPONSE TO NOTICE OF OMITTED ITEMS AND
PETITION TO ACCEPT PAPERS AS RECEIVED ON THE FILING DATE**

Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is in response to the Notice of Omitted Item(s) in a Nonprovisional Application mailed on August 9, 2004, setting a two-month term for reply. Enclosed, along with a copy of the Notice of Omitted Item(s), is page 53. Applicants hereby Petition for page 53 to be accepted as of the filing date of the application, September 23, 2003.

The Notice of Omitted Item(s) in a Nonprovisional Application required submission of page 53, which was allegedly omitted during the filing of the above-identified application. A copy of page 53 is enclosed.

08/18/2004 BABRAHA1 00000039 10668564

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130.00 OP

Also enclosed is a copy of the Certificate of Mailing and the Return Receipt Postcard that accompanied the application at the time of filing. Both indicate that the application as filed contained pages i, and 1-79 for a total of 80 pages. The Return Receipt Postcard was returned to the undersigned indicating that the application was assigned serial number 10/668,564, but the Postcard was not marked in any way indicating that all 80 pages of the application had not been received, therefore indicating that as of the time the application was received by the Patent Office, the application was accepted as having all 80 pages present.

Furthermore, page i of the patent application (copy enclosed) indicates that the application is a continuation-in-part of PCT/GB02/01457, and that each of the applications made reference to are incorporated into the patent application by reference. Therefore, page 53, if in fact was inadvertently omitted, is considered part of the application disclosure as of September 22, 2003 due to the incorporation by reference stated on page i of the application as filed.

Accordingly, for both of the reasons set forth above, page 53 should be deemed to be a part of the application disclosure as of the time of filing, September 23, 2003, and such action is requested. Further, reconsideration and withdrawal of the Notice of Omitted Items is respectfully requested.

The petition fee of \$130.00 is enclosed. The Commissioner is authorized to charge any additionally required fees to Deposit Account No. 50-0320.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP
Attorneys for Applicants

By: Thomas J. Kowalski by Angela M. Collison
Thomas J. Kowalski
Reg. No. 32,147
Angela M. Collison
Reg. No. 51,107
Tel. (212) 588-0800
Fax (212) 588-0500

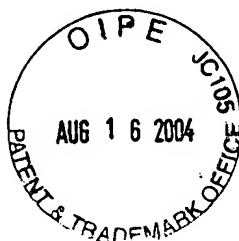


UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/668,564	09/23/2003	Nicholas Michael Morton	674543-2004

20999
 FROMMER LAWRENCE & HAUG
 745 FIFTH AVENUE- 10TH FL.
 NEW YORK, NY 10151



CONFIRMATION NO. 3906

FORMALITIES LETTER



OC000000013489886

Date Mailed: 08/09/2004

NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

A filing date has been accorded to the above-identified nonprovisional application papers; however, the following item(s) appear to have been omitted from the application:

- Page(s) **53** of the specification (description and claims).

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and \$130.00 petition fee (37 CFR 1.17(h))) with evidence of such deposit **must** be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if it is determined that the item(s) was received by the USPTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the \$130.00 petition fee (37 CFR 1.17(h))) requesting the later filing date **must** be filed within **TWO MONTHS** of the date of this Notice.

Applicant is advised that generally the filing fee required for an application is the filing fee in effect on the filing date accorded the application and that payment of the requisite basic filing fee on a date later than the filing date of the application requires payment of a surcharge (37 CFR 1.16(e)). To avoid processing delays and payment of a surcharge, applicant should submit any balance due for the requisite filing fee based on the later filing date being requested when submitting the omitted item(s) and the petition (and petition fee) requesting the later filing date.

III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b).** In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (i.e., the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the

references in the specification to the drawing figures to correspond with any relabeled drawing figures, is required. A copy of the drawing figures showing the proposed changes in red ink should accompany with any drawing changes. Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

Replies should be mailed to: Mail Stop Missing Parts
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P.O. Box 1450
Alexandria VA 22313-1450

*A copy of this notice **MUST** be returned with the reply.*



Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

CERTIFICATE OF MAILING - SEPARATE PAPER - PATENT APPLICATION

Attorney Docket No.: 674543-2004

Title

LIPID PROFILE MODULATION

Filed

Herewith

Applicants

Nicholas Michael MORTON, et al.

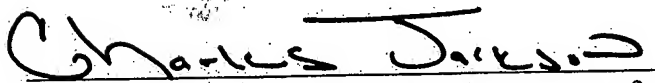


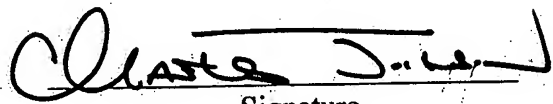
Mailed: September 22, 2003 via "Express Mail Label # EV 345013373 US

I hereby certify that the Patent Application for the above-referenced application is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 on the date indicated above and is addressed to:

MAIL STOP PATENT APPLICATION
Assistant Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Enclosed: Utility Patent Application (total 80 pages, specification pages i, 1-70, claims pages 71-78, abstract page 79)
Drawings (19 sheets) (Figs. 1-21)
Utility Patent Application Transmittal
Fee Transmittal
Information Disclosure Statement, PTO Form 1449 and References
Declaration and Power of Attorney (unsigned)
Check Number 028419 in the amount of \$1,284.00 (to cover filing fee)
Forms PCT/RO/101, PCT/IPEA/401, PCT/IPEA/206 and PCT/ISA/210
Return Receipt Postcard


(Type/printed name of person mailing paper or fee)


Signature



PATENT
674543-2004

LIPID PROFILE MODULATION

REFERENCE TO RELATED APPLICATIONS

This application is a continuation-in-part of International Application PCT/GB02/01457 filed on March 25, 2002 and published as WO 02/076435 A2 on October 3, 2002, which application claims priority from British Application No. 0107383.2 filed March 23, 2001.

Each of the foregoing applications, and each document cited or referenced in each of the foregoing applications, including during the prosecution of each of the foregoing applications and ("application cited documents"), and any manufacturer's instructions or catalogues for any products cited or mentioned in each of the foregoing applications and articles and in any of the application cited documents, are hereby incorporated herein by reference. Furthermore, all documents cited in this text, and all documents cited or referenced in documents cited in this text, and any manufacturer's instructions or catalogues for any products cited or mentioned in this text or in any document hereby incorporated into this text, are hereby incorporated herein by reference. Documents incorporated by reference into this text or any teachings therein may be used in the practice of this invention. Documents incorporated by reference into this text are not admitted to be prior art.

It is noted that in this disclosure and particularly in the claims, terms such as "comprises", "comprised", "comprising" and the like can have the meaning attributed to it in U.S. Patent law; e.g., they can mean "includes", "included", "including", and the like; and that terms such as "consisting essentially of" and "consists essentially of" have the meaning ascribed to them in U.S. Patent law, e.g., they allow for elements not explicitly recited, but exclude elements that are found in the prior art or that affect a basic or novel characteristic of the invention.

Mailed Express mail on: 9/23/03
Label no. EV 34501337305

Serial No. _____ File No. 674543 2004 By TJdim
Title In the Matter of the Application of Morton et al.
The following due 9/23 in the U.S. Patent Office, was received in the Patent Office
☐ Affidavit ☐ Declaration ☒ Express Mail Mailing Certificate
☐ Amendment ☐ (separate sheet)
☐ Preliminary Amendment ☒ Check No. 020419 for \$ 1,284.00
☐ Amendment After Final Rejection ☐ Deposit Account Order Form
☐ Request for Extension of Time ☒ Drawing 19 Sheet(s) (Figs. 1-21)
☐ Provisional Patent Application ☒ Information Disclosure Statement
☒ Application for Patent, including (1 page) ☒ PTO Form 1449 (w/refs.)
70 Pages Specification 51 Claims Abstract ☐ Issue Fee Transmittal
☒ Declaration Unsubstantiated ☐ Brief ☒ Letter (transmittal letter)
☐ Request for Filing Continuation or Divisional Application _____ sheets, in duplicate ☐ Application for TM Registration
Including _____ Specimens
☐ File Wrapper Continuation Patent Application _____ sheets, in duplicate ☐ Status Request ☐ Notice of Appeal
☐ PCT Request _____ sheets, including ☐ Petition ☐ Response
☐ Transmittal Letter to the US/RO ☐ Priority Document
☐ Assignment ☐ Recordation Cover Sheet ☒ Fee Sheet
☒ PCT/RO/101, PCT/1PEA/104,
PCT/1PEA/206



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& HAUG, LLP
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FROMMER LAWRENCE & HAUG, LLP

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